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The Oatmeal vs. FunnyJunk: webcomic copyright fight gets personal

Matthew Inman, creator of webcomic The Oatmeal, tried to ignore the rampant ...

by Nate Anderson - June 2 2011, 3:05pm CEST

272



The Oatmeal bumper sticker by The Oatmeal

Matthew Inman never wanted to be a hardass. He just wanted to write his unique webcomic, [The Oatmeal](#), but only months after he started the project, he

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began to see his work showing up—often with all attribution stripped out—on user-generated content sites like FunnyJunk.com.

He would e-mail site administrators asking them to remove his work, which they did, but users would immediately upload it once more. Playing copyright policeman wasn't worth the time to talk, so Inman "just kind of ignored it for a year," he told me... until he couldn't ignore it anymore.

His readers kept e-mailing him, pointing out the wholesale copying of his work. Eventually, Inman looked into FunnyJunk more carefully. "I started searching around on their site," he said. "My entire site had been mirrored on FunnyJunk."

Hundreds and hundreds of (long) cartoons, much of Inman's work for the last two years, littered the site. Inman couldn't stay silent any more, so he took to The Oatmeal [blog](#) last week to rant against FunnyJunk.

Here's how FunnyJunk.com's business operates:

- Gather funny pictures from around the internet
- Host them on FunnyJunk.com
- Slather them in advertising
- If someone claims copyright infringement, throw your hands up in the air and exclaim "It was our users who uploaded your photos! We had nothing to do with it! We're innocent!"
- Cash six-figure advertising checks from other artists' stolen material

His post concluded, "I realize that trying to police copyright infringement on the internet is like strolling into the Vietnamese jungle circa 1964 and politely asking everyone to use squirt guns. I know that if FunnyJunk disappeared, 50 other clones would pop up to take its place overnight, but I felt I had to say something about what they're doing."

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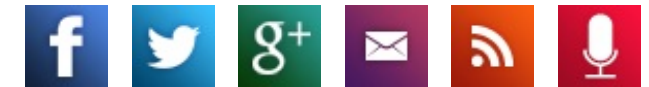
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by **Jacqui Cheng** - June 28 2012, 10:30pm CEST

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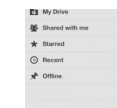
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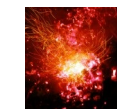
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This Oatmeal comic was so long we had to break it up just to fit it on the page in a sane fashion.

"Just give me a link!"

FunnyJunk is not a small site; according to its [posted stats](#), it serves 10 million page views per day. The idea is that the site's many users create funny images, videos, and animations, then upload them to the site where other users vote on their quality. Reputation on the site comes from creating funny, original work, so it's not hard to see why so much of Inman's material ended up on the site and why the attribution was so often removed.

The site suffers from some of the issues that plagued YouTube in its early days—a decent chunk of its traffic appears to be built on the back of unauthorized copyrighted content. So what's a site like FunnyJunk to do? Under US law, it is required to establish a Digital Millennium Copyright Act agent who can be notified about violations, and unauthorized works must be pulled down upon notification. (FunnyJunk does have a page for sending in copyright complaints, though it does not appear to have an official "DMCA agent.")

In addition, sites can't make money that is "directly attributable" to infringing content, and they can't induce people to upload such content nor have actual knowledge of it on the site. (Viacom is currently suing YouTube for \$1 billion over these very issues.) Is FunnyJunk in the clear on these counts? It's impossible to know without a court case, and Inman has no interest in suing anyone.

"I don't want to go out and police everybody," he said. "I didn't want to be the guy who was like, 'Don't steal.'"

But the onus is on Inman to police his copyrights and send out takedown notices. This is quite a drag on a one-man operation, and Inman tells me he has never done it (though he did recently ask Google to remove some of his FunnyJunk hosted content from its search engine).

Indeed, his request is a modest one. "Just proper attribution; just give me a link!" he told me. Sure, it's still copyright infringement, but he can live with it. After all, he has some sympathy with the argument that piracy actually builds exposure; his own introduction to other webcomics like "[Perry Bible Fellowship](#)" came after seeing them posted on sites like eBaum's World.

But Inman's own experience also showed him that "exposure" without attribution is worthless; in the case of Perry Bible Fellowship creator Nicholas Gurewitch, Inman "read his stuff for years without knowing it was him."

"Dirty content thieves"

The response from FunnyJunk was mixed. Soon after Inman's blog post went up, the FunnyJunk administrator sent a message to his users in which he said that "the Oatmeal wants to sue funnyjunk and shut it down! He thinks we're nothing more than dirty content thieves." The message linked to Inman's contact page and The Oatmeal [Facebook account](#).

The Facebook page was soon "completely trolled," said Inman, and he was not impressed by the quality of the commenters. "Their favorite noun was 'fag'," he said, though the bad behavior went both ways.

"Yo fag, we are more than you think," went one pro-FunnyJunk comment. "We are many. we are strong. we are witty, funny, and awesome. we are FJ and we will not take your shit."

Inman [shot back at FunnyJunk's users](#)—"when puberty started last year it was a really tough and confusing time for you." And Inman's defenders retorted with comments like "Would be so cool if there was an 'accidental' DDOS attack on FJ, wouldn't it?" and "I called the Funny Junk guy a cunt. Sorry in advance if it makes things worse, but I'm a little drunk."

When the flame war finally died down, the FunnyJunk admin issued an unsigned note saying, "We've been trying for the longest time to prevent users from posting copyrighted content" and "I'm having all content, comics, comments, etc. with the names of your comics in them deleted/banned by tonight... The site barely affords to stay alive as it is and has enough problems."

"He did something really stupid followed by something really smart," Inman told me.

FunnyJunk did not respond to a request for comment.



Matthew Inman

Let's talk about copyright

Discussion of the controversy has sprawled across Facebook and into sites like [Reddit](#), where lively debates have broken out, but at least some of Inman's content has been removed. Funnyjunk pulled all uploads involving the words "The Oatmeal"—though as Inman noted in a [followup blog post](#), "This means that all the content which was properly attributed got wiped out and all the comics that have no mention of me are still there, which is basically my entire website."

Inman posted a list of the remaining comics on FunnyJunk. "If that doesn't work, I'll file a DMCA complaint with his ISP," he told me.

But the most interesting conversation may have been the one taking place on FunnyJunk itself. "Everyone should know that as soon as you post something on the internet, it's not yours anymore," wrote one commenter. Another added, "personally i couldnt care less about whether fj [FunnyJunk] is hated by everyone. im here to see funny shit at the end of my shift, then im off to bed."

Others called for FunnyJunk uploaders to become more creative. "Now, next time you're gonna be a faggot and steal someone else's work, think before you do it," said an [anonymous uploader](#) whose plea was viewed by 15,000 people. "It isn't long before FJ gets sued... I just don't wanna see an awesome website, one that has provided me with so many laughs, to go down the shitter because of a bunch of reposting faggots. DARE TO BE ORIGIONAL [sic]."

Setting social norms

The digital advocacy group Public Knowledge sees the entire controversy as a Viacom v. YouTube battle in miniature. Inman doesn't really agree; he notes that his entire comics are usually copied,

Dear comic makers, Oatmeal, etc.:

We've been trying for the longest time to prevent users from posting copyrighted content, stealing comics and claiming it as their own, etc.

I'm having all content, comics, comments, etc. with the names of your comics in them deleted/banned by tonight.

Check by tomorrow and most should be gone. If you still see your comics on here, feel free to use the contact form and they will be removed in 24 hours as usual.

This site has been around for 10 years. It is not a run by not scam operation that steals content for advertising profits. If you would simply go through some of our member pages, you would see a large portion of the OC made by our users. This site barely affords to stay alive as it is and has enough problems.

Thanks

Later FunnyJunk response

while much of the material on sites like YouTube was clips.

Still, similarities certainly exist. Content owners have long complained that the DMCA requires them to do too much work policing their own content, especially when other users can simply upload more clips as old ones are taken down. But the difference here is the smaller scale of the dispute, and the general lack of lawyers. These kinds of small skirmishes will help to create a set of social norms around content production and use on the Internet—which may be just as important as IP laws and court cases when it comes to shaping people's behavior.

"Situations like this one are important to consider," wrote staff attorney John Bergmayer. "Online copyright issues aren't always David vs. Goliath (or Goliath vs. Goliath) affairs. Many important issues involving smaller players will never make it to the court system and set legal precedents, but they're important in setting societal norms and expectations about the use of content.

"Lots of independent creators like Matthew Inman are faced with situations where neither the law nor what is actually happening is entirely clear. By the same token, many entirely legitimate online services face legal uncertainty. One way to make the law better and more predictable might be to re-align it so that it matches peoples' expectations. And sometimes the best way to determine what those expectations are is to pay attention to situations like this one and not just the high-profile cases making their way through the appellate process."

As a bonus, the dispute here is more colorful than those high-profile lawsuits and is refreshingly full of the plain speech so often obfuscated by legal filings and public relations needs.

"I never had plans to sue FunnyJunk and get it shut down," Inman said in a statement to FunnyJunk's users. "I just wanted my stolen comics removed—your admin is a moron who chooses his words about as carefully as a mule chooses where to take a shit."

Update: In the comments section of his blog yesterday, Inman added a brief update: "The owner of FunnyJunk made it so the site changes all instances of 'The Oatmeal' to 'the fag,' and none of the stolen material I mentioned was taken down."

READER COMMENTS 272





Nate Anderson / Nate is senior editor at Ars Technica, where he oversees long-form feature content and writes about technology law and policy. He's currently at work on a book about Internet policing.

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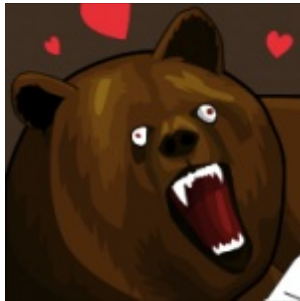
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The fundraiser, now at \$170,000, doesn't violate the ToS, as Carreon asserted.



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